

Quid Novi

VOL. VI NO. 17

McGILL UNIVERSITY FACULTY OF LAW
FACULTE DE DROIT UNIVERSITE MCGILL

February 12, 1986
12 février, 1986

CLEAN AIR LOBBY CRACKS DOWN

Staff Reporter

Passive smoking - the inhalation by non-smokers of second-hand and side-stream cigarette smoke - appears to pose a public health risk larger than the hazardous air pollutants from all regulated industrial emissions combined. This was the testimony of expert witnesses to the recent Public Service Staff Relations Board (PSSRB) case concerning smoke in the workplace. The Chairman of the Board, Walter

Nisbett QC, in upholding a grievor's complaint, identified cigarette smoke as a dangerous substance and health hazard to non-smokers in the workplace.

The ("watershed" - Financial Post) ruling has been welcomed by the Faculty of Law Clean Air Lobby, a group formed a year ago to act on air quality in Chancellor Day Hall. The Lobby forced enforcement of University and city bylaws regarding smoking in the Law Library, but suspended its effort to have all pub-

lic areas of Chancellor Day Hall declared a non-smoking zone last summer after being (as a member of the group put it) "run from pillar to post by student, law-school and university administrations until exams arrived."

The Lobby has reactivated its campaign, armed with the Nesbitt ruling. It plans to act decisively after a short informational period, with a direct approach to Law Faculty Coun-

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SPORTS AND ENTERTAINMENT LAW IN CANADA

By Terry Pether

At the invitation of Forum National, Morden "Cookie" Lazarus spoke to a crowded room about the law of sports and entertainment in Canada. A 1965 McGill law school graduate, Lazarus told students that a course should be offered that deals with the legal problems attending sports and entertainment with special emphasis on the business aspects of that

area of law. He proposed to discuss what elements such a course would contain; but he never got around to that.

Regarding entertainment, Lazarus talked briefly about copyright law and raising money. On sports, he mentioned players' contracts, special events licensing and products endorsement. For some reason, he taught us how to produce a film too. Time constraints permitted only

his cursory introduction to what is perceived as an exotic field of legal practice. Indeed, Lazarus' topic was doubtless responsible for a turnout higher than the average that visitors to our faculty usually attract.

Unfortunately, none of his clients' show-business acumen has rubbed off on Lazarus (except for his name). His presentation

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ANNOUNCEMENTS

B.C.L. III Class Picture

B.C.L. graduating students who wish to participate in a class picture should contact Gerry Apostolatos (B.C.L. III Class President), either directly, or by leaving a message at the Student Affairs Office. The decision as to whether there are a sufficient number of students interested to warrant the making of such a picture will be taken one week after the publication of this open letter.

Bachelor of Civil Law Provisional List of Candidates for Spring Convocation 1986.

Lisette Alary
Cliff Arnold
Josephine Battista
Sylvie Bienvenu
Sandra Bizier
Robert Bourgoing
Graça Maria de Sousa
Sarah Dougherty
Eric Dunberry
Pierre Gonthier
François Guilbault
Tadeus Gruchalla-Wesierski
Suzanne Hotte-Baraby
Richard Kurland
Alfred Macchione
Genevieve Marcotte
Asher Neudorfer
David Paré
Giuliana Pendenza
Renzo Riga
Jean-Pierre Sheppard
Louis Simard

Legal Articles

All those interested in writing articles on legal matters of general interest (to be published in the McGill Tribune and Daily), please contact Louise (845-7534), Virginia (488-5243), or Mark Chernin at Legal Aid.

Law Games Sponsors

The Law Games Committee would like to extend hearty thanks to those of you who sponsored runners in the Frostbite Marathon, and especially to the runners themselves, whose efforts raised close to \$500 to help defray the costs of the Law Games. Way to go, gang!

To the Attention of all Students Second Term Transcript Verification

**ALL STUDENTS MUST VERIFY
THEIR TRANSCRIPT AT
THE STUDENT AFFAIRS OFFICE
BETWEEN
9:30 a.m. & 4:30 p.m.**

**COMMENCING TUESDAY,
FEBRUARY 11**

Graduate students are especially urged to verify their transcripts immediately.

Your compliance in verifying your record as early as possible will ensure immediate processing of corrections.

Examination Numbers & Examination Schedules are now available to S.A.O.

Re: Party at Jodees

The party at Club Jodee's was a great success! Thank you all for coming!

Also very special thanks to everyone at Club Jodee's and to Isak and Joe for their help.

**Maria R. Battaglia
BCL I President**

P.S. To all those who asked: Yes! There will be another party...soon.

Board of Student Advisors 1986-87

Applications are invited for the Board of Student Advisors for the academic year 1986-87.

Each member of the Board is responsible for leading a first-year tutorial group in legal research and writing. The duties, carried out in close consultation with a Faculty Adviser, include conducting classroom sessions and drafting and grading assignments.

Candidates should have a strong academic background, demonstrated research and writing skills, and leadership qualities. Normally, only students who will be in their 3rd or 4th year when they are serving on the BSA will be considered for these positions.

Applications, including a curriculum vitae and a statement of about 500 words explaining your interest in the BSA, should be addressed to:
Professor Dennis Klinck
Faculty of Law
Phone: 392-5251

Application Deadline: March 7, 1986.

Anyone wishing further information should feel free to contact Professor Klinck, or Michael Shuster or Scott Turner, Directors of this year's BSA.

Notice

A box has been set up in the hallway of New Chancellor Day Hall so that students may leave Valentine greetings for friends.

Clean Air
Cont'd from p. 1

cil. It has invited the lawyer who acted for the Public Service Alliance of Canada before the PSSRB and a Montreal medical expert to speak at the Faculty on February 19.

A number of Canadian businesses (Aetna, Boeing, BC Tel, BC Hydro, The Globe and Mail, The Toronto Sun), government departments (Federal Health and Welfare, Auditor General, Regional Industrial Expansion) and hospitals (Edmonton, Misericordia, Ottawa General, Montreal Jewish General) are smoke free. The Faculty of Law would be a McGill University first.

"The evidence, as adopted in the Nesbitt ruling, is quite clear," reads a Lobby letter to law professors. "Government standards and scientific litera-

ture reflect a maximum acceptable involuntary cancer risk of 1 in 100,000 for environment carcinogens in air, water or food. Studies undertaken in Hong Kong, Scotland, Greece, U.S., Germany and elsewhere quantify the risk to passive smokers in the workplace at between 100 and 250 times this rate."

Reduction of this hazard by ventilation would, according to the PSSRB ruling, require "a 270-fold increase in the effective ventilation rate, which is completely impractical. The use of air cleaning equipment is uneconomical. Complete physical separation of smokers and non-smokers or prohibition of workplace smoking are the only feasible alternatives." The Lobby is therefore calling for the complete elimination of smoke from the hermetically-sealed Chancellor Day

Hall, ventilated as it is by a single, central recirculating air plant.

Will the Lobby go to the courts if Faculty Council won't act? "We'd rather not, and we are sure that it won't be necessary in light of the PSSRB decision," said a Lobby member. Another scientific article gets proffered, this time from the Medical Journal of Australia: "Active smokers might well cooperate more if they realised that the objections of non-smokers are based on more than just mildly aesthetic grounds. Non-smokers, realizing that they have something vital at stake, must learn to make their voices heard - politely, no doubt, but none the less stubbornly." "We will be polite," says the Lobby. "But we will also be stubborn."

Lazarus
Cont'd from p. 1

was rather stilted as his Roy McMurtry eyes followed the script closely. This script, by the way, forms

the preliminary course outline which Lazarus hopes to complete soon and present to the law school. Maybe one day, we will be able to take a course in which

otherwise dreary materials will be livened up by the familiarity of certain celebrated names. After all, who really cares about Donoghue or Stevenson?

QUOTABLE QUOTES

International Tax/Peter Cumyn, Friday, January 24, 1986:

While trying to define "soliciting" for the purpose of whether a foreign branch operation will be subject to domestic tax, one student ventured the clarification that in "ano-

ther field" soliciting is required to be "pressing and persistent". Mr. Cumyn then replied that this might be a useful definition since the taxing authorities are quite "laid back".

Dean Macdonald to Professor Yves-Marie Morissette, Leg-O-Jeunes Dinner, January 30, 1986:

"The difference between me and you, Yves, is that you think you're in touch with the almighty. But I am the almighty."

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YOSHIO MARKINO AND THE JOHN BULL-ESSES

by Joseph Kary

While doing research in the library, Queen's University Classics professor Ross Kilpatrick stumbled upon an obscure 1923 book of watercolour reproductions called "A Japanese Artist in Rome". This event led him to begin an international detective hunt for information about the book's artist, the once-renowned but now forgotten Yoshio Markino.

Markino, as Kilpatrick discovered through correspondence, library searches, rare book-dealers, and old newspapers, left Japan at an early age for California in the 1890's. He attended art school in San Francisco, but disliked the city and the racism he found there. After a few years, he left for London, the city that would become his great artistic love.

Markino's fascination for drawing shines through the stories of his early years in London. Wanting to capture the movement of a horse on paper, he paid 3 pounds for one of the first Kodak cameras -- an enormous sum for an impoverished artist in the first years of the century. The pictures of the horses were blurred and unusable; the first cameras were too slow to take pictures of motion. Declaring Kodak to be his enemy, he wanted to smash the camera to bits -- but relented, and gave it to a friend. Most of his later paintings were drawn from memory, aided only by rough sketches and notes. Although he occasionally railed against memory, saying that carrying an

image in one's thoughts was like trying to carry water in a woven basket, his memory was astonishingly good: pictures of Japan made 15 years after he left are amazingly precise.

Markino eventually became popular. His drawings and watercolours of London were published in book form, and he was commissioned to illustrate several travel books, including "A Japanese Artist in Rome" in 1907. This was the book that Kilpatrick found in a 1923 reprint. Markino experimented with different English spellings of his name: he first spelt it "Makino", but discovered the English pronounced this "May-keh-no", and so he inserted the "r" to slow things down.

An outspoken opponent of racism, he became involved with the British feminist movement, attending (and sketching) the great suffragette rallies at Albert Hall. In his sketchbook of English women (published as My Ideal John Bulleses) there is a drawing of the female chauffeur who drove him to one of the rallies. She is cranking up the motor of the car while dressed in a full-length skirt, a sight that astonished Markino even more than the fact that she was his driver.

Markino spent most of his adult life in the West. He married a Frenchwoman in the 1920's and was later divorced. In 1942, however, he left England for Japan, never to return.

Cont'd on p. 6

THE SOVIET UNION: PERCEPTIONS OF A LAW STUDENT

by Todd Roberts

August brings law students to the realization that another summer has quickly passed them by and yet another year of studies painfully awaits them. A dinner and dance at the Faculty Club of Dalhousie marked the end of the Common/Civil Exchange Program. Goodbyes were extended well into the morning as summer friends from across Canada gradually departed for their respective law schools. None could have imagined that we would be together again six months later at a chilly 60 degrees latitude and a hemisphere away.

The visit to Russia was the dream of Lise Papillon of the University of Ottawa. The study of Canada's two private law systems was not enough for her so she undertook to arrange the opportunity for our group to see the Russian system at work. During the months of September to December, Lise and Fellow U of O law student Chantal Demers neglected their first term studies to devote the extraordinary amount of time required to arrange transportation, accommodations, a special agenda of legal conferences, and the financing necessary to allow the project to become a reality. Conference arrangements were made with the help of the Soviet Embassy in Ottawa, and the generous contributions of the Secretary of State and the Barreau de Québec covered about half of the project costs of the Québec contin-

gent. In the midst of December exams, Jose Battista, 30 law students from across Canada, and myself received the news that the efforts in Ottawa had been successful and we would be travelling to the USSR for 10 days.

We left Mirabel airport January 2nd and arrived in Helsinki the morning of the third. After a much needed rest we arrived in Leningrad the afternoon of the fourth. Our Intourist guide, Irene, took us to our hotel. I was prepared for the worst, having heard horror stories of Russian accommodations. Instead, the Pribaltiskiye hotel (which means "by the Baltic") was a large modern hotel complex with all the extras one could want (restaurants, bars, a swimming pool, etc.). After we had eaten, our guide told us that there was nothing planned for the evening and that we could take the bus downtown if we wished. (What? We could go wherever we wanted without signing in or having a cloak-and-dagger man assigned to watch our every move?).

I spent the bus trip looking at the pro-Leninist billboards that were pervasive in the downtown area (typical ones featured pictures of construction workers and the caption "our co-operative efforts for the Motherland" in Russian) and swapping hockey names with a friendly Russian passenger whose knowledge of English was limited to "Wayne Gretzky" and "Bobby Hull". We got off the bus

on Nevsky Prospect near some large department stores and were immediately surrounded by black market traders wanting to buy our foreign currency, clothes, cameras, etc. Despite offers six times greater than the amount given at exchange banks for American currency, no trades were made. One problem with trading currency on the black market is that we were each given a form when we entered the country and all exchanges of foreign currency at the official banks are recorded on this form. Upon leaving the finest art museums in the world and in front of me was the stage of the 1905 demonstration and from where I stood the Czar ordered his troops to fire on the crowd. Bloody Sunday, as it became called, sparked the 1905 revolution. The same square saw the storming of the Winter Palace in the more successful revolution 12 years later.

The next morning we visited Peter and Paul Fortress before leaving for Moscow. The fortress was a military base used as a compound for pre-revolutionary political prisoners and is the site of Peter and Paul Cathedral and the mint.

Our hotel in Moscow was equally modern and located next to the Exhibition of Economic Achievements Park and the Cosmos Space Monument. Over the next two

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Soviet Union
Cont'd from p. 5

country, the amount of currency recorded on the form is the maximum that can be exchanged back into "hard currency". Also, it is impossible to justify purchases made in Russian currency when according to the exchange form you did not have the rubles to buy these items. It is possible to trade for a fortune in Russian currency, but because the currency is worthless outside the Soviet Union you have to spend it all while you are there without accumulating anything - just like in Brewster's Millions.

The following morning we visited Pushkin Square, St. Isaac's Cathedral, and the Smolny Institute (the headquarters of Lenin and the Bolsheviks immediately after the revolution). The afternoon was spent in the beautiful Hermitage and Winter Palace located on the banks of the Neva River. I stood by a window overlooking Palace Square. Behind me was one of the days we met with people from Komsomol, the Institute of Canadian and American Studies, the Procurator's office, the Canadian Embassy, and saw the Bolshoi ballet production of *Le Petit Prince*. We also attended the Institute of State and Law and spoke with students and faculty of law at Moscow State University. Our final day was spent touring inside

the Kremlin and shopping in the GUM department store across the street from Red Square, St. Basil's Cathedral, and Lenin's Tomb. And just as our summer adventure had ended a half year earlier, our final evening in Moscow featured a gala dinner and dance.

Impressions? This will have to be superficial because there is so much that I learned from talking to ordinary Russians that I met in the streets. Briefly, and I think Jose would agree, we were treated very well wherever we went and we faced much less in the way of restrictions that I had expected. It certainly was not the police state that I was prepared for and I would recommend it to all as a good place to visit.

I also found the Soviet legal system was relatively sophisticated and was not the ad hoc oppressive system I had imagined. Many Soviet policies that I used to view as irrational and totalitarian seemed much more rational once I had a better feel for the context in which their policy and law is formed. Even with a simplistic feel for Soviet history I could see the rationality of their responses to certain situations. Once I could sense rationality it became clear that progress in the field of international relations is possible through dialogue, appreciation, and understanding, and that irrational rhetoric and name-

calling is misconceived and regressive. A rational system is also inevitably going to be subjected to internal reform, and the impression I got from talking to people on the street was that the law and their society change more rapidly than I had previously believed. To follow this up, my conception before the trip was probably of a Russia that existed 10 to 15 years ago. Finally, if we can accept that the Russian legal system does have a logic to it, we can study it and contrast it to our own developing system with the view to profiting by reforming our own law, where shown to be appropriate.

Alas, the Soviet Union was a great place to visit and I learned a great deal while I was there, but I was still happy to return to Canada. With the media comparisons of the United States and the Soviet Union in the areas of military and space technology I had never realized that the Soviet Union could be so poor in relation to Western countries. It is in fact a nation still developing the capability to house and feed its people. A mere 10 days earlier I would not have thought that the fresh glass of milk we were served on our return flight would be such a welcome sight - and we were able to eat much better than the average Soviet family does while we were there.

Yoshio Markino
Cont'd from p. 4

One can easily guess the reasons -- the war, and popular feeling against the Japanese, would have made life hard for him, whether or not he had ever changed his citizenship. Kilpatrick attributes his post-war obscurity to the same

anti-Japanese hostility.

Markino died in Japan in 1956, and his paintings seem to have vanished; presumably they are still in the hands of private collectors. The slides Kilpatrick showed during his recent talks at Concordia and McGill were all taken from reproductions in books -- many of them stamped

with a library stamp by a theft-conscious librarian.

Ironically, after searching everywhere for Markino's books, Kilpatrick found an all-but-complete collection in McGill's McLennan library; at his suggestion, they have been assembled and are available to the public.

On Valentine's Day Quid Novi Presents:
10 Ways to Leave Your Lover

<u>Author</u>	<u>Method</u>
1. Henry the VIII	Decapitation
2. Cleopatra	Asp Poisoning
3. <u>R v. Smith</u>	Put your bride in the bathtub
4. Claus von Bulow	Shoot her up with insulin
5. Hollywood Wives	Hire Marvin Mitchelson
6. Claire Lortie	Put him on ice
7. Renée Richards	Sex change operation
8. Colin Thatcher	Hire a pro
9. Samson's Delilah	Make him go punk
10.	and if all else fails... enroll in McGill Law School



"Here's that book you ordered, 'Income Tax Made Easy.'"



"Is he allowed a plea of insanity for a parking ticket?"

VALENTINES

Aux deux amoureux du BCL I:

Vos petits désaccords
Vos longs corps à corps
Vos flamboyantes chicanes
Grandement nous tannent
Les occupants des
casiers section 8

My very dear TICA,

To a wonderful person, a
sweet, beautiful girl, and
a very special friend:
HAPPY VALENTINE'S DAY!
If you ever change your
mind...I'll be waiting.

From your "secret admirer"
who will always care
for you.

M.M.:

Your diamond casts a shadow
on my heart
I wish I'd studied medicine
But anatomy's a start
Jay

Taras:

Why spend the night at the
hospital
When you could spend it
with us
Swan + Reiter

Micheal Doyle:

Your cologne overpowers me
Blanck + 16

Desperately Desiring Circ

Your hands are so alluring
They leave me warm and purring...with desire

Your wit and humour are
abound
They leave me spinning
round and round...with
desire

Though your bank is low
Your real potential makes
me glow...with desire

Lest you think my feelings
untrue
Let's discuss it over dinner
for two.

Easy

Ode to Professor Benson, II

With your baby-smooth face
And your wind-ruffled hair
You're promoting in me
A high standard of care

I feel falsely imprisoned
By the black boards and
chalk
But to see you alone
Might cause nervous shock

I'm pleading necessity
To any claims for assault
Though any breach of your
duties
Will be joint and shared
fault

The reasonable man
In the same circumstance
Would not throw away
Such a wonderful chance

So don't hold your horses
And don't shy away
From intentional torts
On Valentine's Day.

Anon

Big Bob:

This bitch needs a good
veterinarian

In Heat

Jason:

Don't mend your jeans.

Fanny

Jason:

I've served a lot of beef
steak
But yours is pretty rare
I'd like to have you on my
grill
But all you do is stare.

Ms. Sex-à-Peel

Kerry,

Your slope or mine?

C.R.

Michael McG.:

I'm five foot eleven in my
black leather boots
My name is a secret but my
friends call me Toots
We're on the same level;
we'll see eye to eye
I think that I love you, my
high-in-the sky guy.

Happy V-Day to the Tall,
Sexy Blonde,
Let's have tea Miss McGill
style!

Your Admirer

D.S.

You think I'm a runt
And you hate what I say
But I want to be yours
On Valentine's Day
F. (you know who)

Cher Neil:

Tu me fais Tremblay.

To D.P.:

You've been watching me
I've been watching you
If this goes on much longer
I don't know what I'll do

CR

A.A.:

I'm so saad without you.

To an exotic little plant in B.C.L. I:

Let's fertilize a relationship.
Expect a call.
From a guy who hopes he
has a green thumb.

Vince:

Who is that dark-haired
wench?
It gives my heart a wrench.
The Other Woman

Dear Suzanne:

Separate and apart
Is breaking my heart
Let's Try the new Family
Act.

P.F.

Teddy Bear

A special Valentine's
Day wish to Teddy Bear from
his "HAMALIAN" HAREM.

xoxoxo...

My darling Professor Baker:

Will you ever consider my
case?
It's as Blaine as the nose
on your face
An adoring student